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Applicants: Robert J. Brockway  
Serial No.: 09/599,679  
Filed: June 22, 2000  
For: COMPACTOR WHEEL AXLE GUARD SYSTEM



Attorney Docket No. TER003RA

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS**  
**37 C.F.R §1.9(f) and 1.27(c) - SMALL BUSINESS CONCERN**

I HEREBY DECLARE THAT I AM an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN: Terra Compactor Wheel Corporation  
ADDRESS OF CONCERN: 3209 South 32nd Street  
Sheboygan, WI 53082

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under Section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

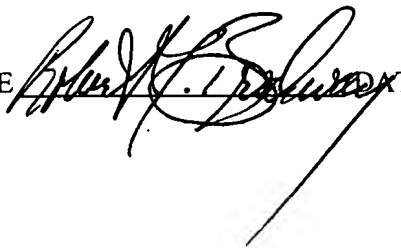
I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled **COMPACTOR WHEEL AXLE GUARD SYSTEM** by inventor(s) **Robert J. Brockway** described in the Reissue patent application filed June 22, 2000 and having Serial No. 09/599,679.

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: Robert J. Brockway  
TITLE OF PERSON OTHER THAN OWNER: President  
ADDRESS OF PERSON SIGNING: West 6397 Judy Drive, Plymouth, WI 53073

SIGNATURE

 DATE: 9-6-00

09599679-062200



Reissue Patent  
Docket No.: TER003RA

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Robert J. Brockway

Original Patent No.: 5,769,507

Title: COMPACTOR WHEEL AXLE  
GUARD SYSTEM

Original Issue Date: June 23, 1998

**INVENTOR'S REISSUE OATH**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Being duly sworn, Robert J. Brockway deposes and says as follows:

1. I am a citizen of the United States of America, residing in the City of Plymouth, County of Sheboygan, and the State of Wisconsin.

2. I believe that I am the original, first, and sole inventor of the invention or discovery in COMPACTOR WHEEL AXLE GUARD SYSTEM described and claimed in United States Letters Patent No. 5,769,507, issued June 23, 1998, and in the above-identified application, for which I solicit a reissue patent; and I do not believe that this invention was ever known or used in the United States of America before my invention or discovery thereof.

3. I have reviewed and understand the contents of the specification of the above-identified application, including the claims, as amended by any amendment specifically referred to herein.

4. I acknowledge my duty to disclose to the Patent and Trademark Office all information known to us to be material to the examination of the application.

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5. I believe the original United States Letters Patent No. 5,769,507 to be partly inoperative for the reason that I claimed less in the patent than I had a right to claim, particularly by omission of claims 21-23 of the foregoing specification.

6. The error which renders the patent partially inoperative arose from inadvertence, accident or mistake, without any fraudulent or deceptive intention on my part.

7. The error initially arose when the non-provisional patent application which resulted in the original Letters Patent was filed on October 17, 1996. The error arose because our attorney did not fully appreciate, at the time the application was filed or at the time the application was allowed, the true nature and scope of the invention disclosed in the original application and thus did not prepare claims of broad enough scope to provide the patent protection to which the invention properly is entitled.

6. Claims 1-5 all require that the axle guard system comprise a cleat-free area that extends widthwise from the inner edge "at least about the width of one of said cleats." This cleat free area can have at least the width of any compaction cleat, not just the width of the compaction cleats mounted to the face of the wheel rim.

8. The error further arose because I did not appreciate that the claims 1-5 require that the axle guard system comprise a cleat-free area that extends widthwise from the inner edge "at least about the width of one of said cleats." This cleat free area can have at least the width of any compaction cleat, not just the width of the particular compaction cleats mounted to the face of the wheel rim.

9. The error was discovered after issuance of the original Letters Patent, when the claims of the patent were reviewed against commercial compactor wheels then appearing in the marketplace. It was then discovered that the claims 1-5 of the original Letters Patent require that the cleat-free area extends widthwise from the inner edge "at least about the width of one of said

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10. Claim 21 is an independent claim submitted. It differs from original Claim 1, in that it replaces the original “at least about the width of one of said cleats” language with the language “at least about the width of a compaction cleat.”

12. Claim 23 is directed to a compaction machine that comprises the wheel of claim 21.

STATE OF WISCONSIN )  
COUNTY OF Sheboygan ) ss.

(SEAL)

Notary Public

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Robert J. Brockway

Title: COMPACTOR WHEEL AXLE  
GUARD SYSTEM

Original Patent No.: 5,769,507

Original Issue Date: June 23, 1998

**DECLARATION**

Assistant Commissioner for Patents  
Washington, D.C. 20231

I, Harold C. Knecht III, declare that:

1. I have been an attorney registered to practice Patent Law since March 24, 1992.
2. I drafted the parent provisional application No. 60/005,639 of the above-identified reissue application and filed it on October 19, 1995.
3. I drafted the parent non-provisional application No. 08/732,901 of the above-identified reissue application and filed it on October 17, 1996 and prosecuted the parent non-provisional application to the 5,769,507 patent.
4. I drafted the claims that were prosecuted and allowed in the parent non-provisional application.
5. The true nature and scope of the invention disclosed in the parent non-provisional application was not fully appreciated at the time the application was filed or at the time the application was allowed and thus claims of broad enough scope to provide the patent protection to which the invention is properly entitled were not prosecuted.

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